

## NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA WORKERS' COMPENSATION APPEALS COMMISSION

The Alaska Workers' Compensation Appeals Commission proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with procedures for appeals before the commission, including the following:

- (1) 8 AAC 57.040 is proposed to be reorganized so that the ways to *file* papers at the commission are divided from the ways to *serve* papers on other parties by changing the order of the subsections and adding "on a party" after "served." This makes the rule easier to understand.
- (2) 8 AAC 57.050 is proposed to be changed to allow a party to file most documents electronically or by facsimile without mailing the commission an original. This will save parties money and time and reduce paper waste. The proposal reorders the subsections to separate the way to file documents at the commission from the way to serve documents on other parties, so the rule is more clear. The time a commission day ends for filing documents is changed from 4:30 p.m. to 5:00 p.m. to conform to the commission's office hours.
- (3) 8 AAC 57.070 is proposed to be changed by adding a sentence that clearly states an appeal starts by filing a notice of appeal. The proposed change also makes it clear that appellants only need to list the names and addresses of the appellants and their attorneys, not the appellees' names and addresses.

A new subsection is proposed to require appellee parties to give the commission their names and addresses. The Office of Administrative Hearings sends appeal participants anonymous surveys, and the commission must supply the Chief Administrative Law Judge with the parties' names and addresses for the surveys.

- (4) 8 AAC 57.072(a)(1) is proposed to be changed to start the time for filing a motion for extraordinary review from the day the decision that the person wants reviewed was filed in the board's office, instead of the date of service. This change uses the same start date as for appeals. The time will run from the date the decision was filed in the office of the board.
- (5) 8 AAC 57.074(a) is proposed to be changed to match the name and address listing requirement discussed in paragraph (3) above.
- (6) 8 AAC 57.120(h) is proposed to be changed to conform the reference to the current Court System *Manual of Transcript Procedures* instead of the out-dated edition. The editor's note is also changed to give the current URL for the Court System website.
- (7) 8 AAC 57.210(b) is proposed to be changed to remove the requirement that a party file an order for the panel to sign with every motion. The panel does not use the orders and this saves unnecessary work for the parties or their attorneys. Instead, the party filing the motion is required to tell the commission precisely what the party wants the commission to do.
- (8) 8 AAC 57.210 is proposed to be changed to excuse parties from serving the director of the Division of Workers' Compensation with a copy of a motion if the director filed a notice of non-intervention. This change will save the parties from having to file extra copies in Juneau, and the Director's office from unneeded filing.

The commission also proposes amendments to correct URL references in several editor's notes.

In addition to proposing changes to existing regulations, the Alaska Workers' Compensation Appeals Commission proposes to add two new sections to the regulations in Title 8 of the Alaska Administrative Code on procedures for commission appeals.

- (9) 8 AAC 57.065 proposes to add a new section that adds basic rules about attorney representation before the commission.

The appeals commission is not included in the statute [AS 23.30.110(d) that excepts workers' compensation board hearings from the law [AS 22.20.440] that corporations must be represented by attorneys in legal proceedings. The proposed regulation allows the person who represented the corporation before the board to file an appeal, even if not an attorney, but requires that the clerk notify the person that the corporation must be represented by an attorney admitted in Alaska in commission proceedings. If an attorney does not enter an appearance within 30 days of the clerk's notice, the commission may dismiss the appeal.

This section does not list every business organization that may be required by state law to have an attorney, because the laws regarding different business organizations vary and often change. Instead, the regulation sets rules for corporations and says that "a partnership or other unincorporated association" must proceed as required by law.

This section also directs a person who proceeds without an attorney to sign all documents the person files in the commission. It allows a person to be assisted (not represented) by a non-attorney only as the commission orders.

- (10) 8 AAC 57.235 proposes to add a new section dealing with the appointment and duties of the clerk of the commission. It sets basic limits on the clerk's appointment and preserves the position in the classified employee service. The clerk is given specific duties, like preserving and transmitting the record on appeal, preparing docket notices, publishing decisions, returning bonds, keeping and copying recordings, giving notices to the board and notifying people of deficiencies (lack of compliance) in their paperwork. The clerk must give a party time to remedy the deficiency, and notify the chair if it is not remedied on time. The commission clerk does not have the same authority as a clerk of court. For example, the commission clerk is not authorized to *refuse* a notice of appeal because it does not comply with the regulations.

- (11) 8 AAC 57.900 is proposed to add a definition of "clerk" that refers to the statute that authorizes appointment of a clerk, AS 23.30.009(a)(1).

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to K. Knudsen, Chair, Alaska Workers' Compensation Appeals Commission, at 1016 W. Sixth Ave., Rm 405, Anchorage, AK 99501, by facsimile to (907) 269-6737 or by e-mail to [awcac.clerk@alaska.gov](mailto:awcac.clerk@alaska.gov). The comments must be received no later than 5:00 p.m. on **Monday, Nov. 30, 2009**. Written comments received are public records and open to public inspection.

Oral or written comments may also be submitted at a hearing to be held on Monday, Nov. 23, 2009, in Room 402, 1016 W. Sixth Ave, Anchorage, AK 99501. The hearing will be held from 1:00 p.m. to 4:00 p.m. and might be extended to accommodate those present before 3:00 p.m. who did not have an opportunity to comment.

If you are a person with a disability who needs a special accommodation to participate in this process, please contact the Clerk of the Commission at 269-6738 no later than Nov. 13, 2009, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact the Clerk of the Commission at 1016 W. Sixth Ave., Rm 405, Anchorage, AK 99501, telephone (907) 269-6738, or e-mail [awcac.clerk@alaska.gov](mailto:awcac.clerk@alaska.gov) or go to [www.labor.state.ak.us/WCcomm/home.htm](http://www.labor.state.ak.us/WCcomm/home.htm).

After the public comment period ends, the Appeals Commission will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

**Statutory Authority:** AS 23.30.008; AS 23.30.009; AS 23.30.127.

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 23.30.007; AS 23.30.008; AS 23.30.009; AS 23.30.125; AS 23.30.127; AS 23.30.128; AS 23.30.395

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

DATE: Oct 26, 2009

  
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Kristin S. Knudsen, Chair  
Alaska Workers' Compensation Appeals Commission